



**VACATION OF RIGHT-OF-WAY  
PUBLIC HEARING: OCTOBER 06, 2022  
STAFF REPORT**

#7

**PETITIONER:** Bannock County – Hal W. Jensen  
**LOCATION:** N. 6<sup>th</sup> Ave. R.O.W., between E. Clark St. & E. Center St.  
**REQUEST:** Vacation of Right of Way

**FILE # 22-2646**

**RECOMMENDATION:** Based on the information provided by the applicant and contained within this report, staff recommends approval of the request to vacate the subject right-of-way, with the conditions listed below:

1. All comments contained in the Public Works Memorandum, dated September 1, 2022, shall be adhered to; and
2. An easement shall be granted to the City to access the garbage container enclosure from the area within proposed right-of-way vacation, N. 6<sup>th</sup> Avenue. Should the enclosure be moved, then the enclosure shall be brought up to current City standards and approved prior to its relocation.

**REQUEST & BACKGROUND:** An application has been submitted by Hal W. Jensen representing Bannock County requesting to vacate the public's interest of approximately 0.413 acres (more or less) of N. 6<sup>th</sup> Avenue (Attachment A). The petitioner is desirous of vacating the right-of-way of N. 6<sup>th</sup> Avenue located between E. Clark St. and E. Center St., extending approximately three hundred feet (300'). The existing right-of-way is sixty feet (60') in width and appears to encompass the road, on street parking and sidewalk. The subject right-of-way was originally platted with the Pocatello Townsite between blocks 234 & 268 (Attachment C). Comments have been received by the City's Public Works Department (Attachment B).

**NOTIFICATION:** All property owners of record abutting the proposed right-of-way vacation and property owners within 300 feet (300') of the boundary of the proposed right-of-way vacation have been provided notice of the public hearing in order that they may provide comment on the proposed request. All addresses were provided by the applicant and verified by the signed mailing list affidavit submitted by the applicant and were sent by certified mail. Notice was also provided in the legal section of the Idaho State Journal. Public comment has not been received as of the completion of this staff report.

**UTILITY PROVIDER & CITY DEPARTMENT NOTICE:** Utility providers and affected City departments were provided notice on 09/13/2022. Comments received by private utility companies and City departments are summarized in Table 1.

**Review standards per Council Resolution 2016-11:**

**1. Describe why the requested vacation is expedient for the public good:**

*Petitioner response:* "Bannock County Court House and adjacent physical facilities function like a campus. By vacating 6<sup>th</sup> St. along the block will provide greater public safety for pedestrian traffic between facilities and provide opportunity for additional parking, accessible parking, and restrict speed of traffic through a parking area."

**2. Identify any "damages" that the City may incur as a result of the requested vacation and describe any proposed terms and conditions for mitigating any "damages";**

*Petitioner response:* "'Damages' – Physical harm caused to something in such a way as to impair its value, usefulness, or normal function. The normal function is a two-way right-of-way, the potential "damage" is restricting a two-way R.O.W. to a one-way access easement."

**3. Describe the requested manner of reversion of the requested vacated area and how it is in the best interests of the adjoining property owners:**

*Petitioner response:* "'Reversion' – A return to a previous state. The road section will not revert to a "previous state", but will remain as constructed. There may be methods used to direct and slow traffic, but through traffic will be allowed."

**4. Explain why granting the requested vacation will not impair the rights of any lot owner or public utility:**

*Petitioner response:* “Bannock County owns the property on each side of the right-of-way, the vacation will improve pedestrian safety. The “property rights” will not be impaired but improved. All utilities will remain in the “easement” and be accessible for repair and maintenance.”

**5. Please provide any additional information that you feel is applicable to this petition.**

*Petitioner response:* “Bannock County court house and adjacent services have grown in use and will continue growth and service as our county and communities grow and change. Until the county provides new facilities this is a method to provide better pedestrian safety, accessibility and parking facilities and adjacent to the existing facilities.”

**Table 1: Utility Provide & City Department Comment Summary**

Reviewing Agency	Recommendation	Comments
Intermountain Gas	No Response	-
Idaho Power	No Response	-
Cable One	No Response	-
Water Pollution Control	No Response	-
Engineering	Approve with Conditions	See Attachment B
Streets Operations	Not Opposed	“Thank you both for meeting with me earlier today. Merrill’s new letter covers Street’s concerns in regards to the storm drain system so I can retract my concerns with those. As for the traffic concerns, I spoke with Tom and Jeff regarding the traffic impacts of the vacation after I left City Hall. From that further discussion, Street Operations will not be opposing the vacation.” 9/27/2022
Transportation	No Response	-
Water	No Response	-
Building	No Response	-
Fire	No Response	-
Sanitation	Approve with Conditions	“Bannock County Courthouse has a garbage container enclosure that we currently service off of Sixth street. Our concerns are where we will access the enclosure as the parking lot behind it is very congested and there is not a lot of room for large commercial vehicles. The enclosure will have to be brought up to current standards if we move the container. Let us know if you have any further questions.” 9-26-2022 (See condition #2).
Planning Division (Planning & Development Services Dept.)	Approve with Conditions	-
Traffic Engineer	No Response	-
BTPO	No Response	-
ITD	No Response	-
Legal	No Response	-

**ATTACHMENTS:**

- A. Petition for Vacation of ROW Application & Attachments
- B. Memorandum from Public Works dated September 26, 2022
- C. Pocatello Town Site
- D. Aerial

# **ATTACHMENT A**

City Council Regular Meeting

Vacation of Right-of-Way

10/06/2022



PLANNING & DEVELOPMENT SERVICES  
PO Box 4169, 911 NORTH 7 AVENUE  
POCATELLO, IDAHO 83205  
PHONE (208)234-6184; FAX (208)234-6586  
planning@pocatello.us

## VACATION OF RIGHT-OF-WAY PETITION

Received Date: 8.23.22

Hearing Date: \_\_\_\_\_

Application #: 22-2646

Staff Assigned: \_\_\_\_\_

Reference #: \_\_\_\_\_

Receipt Date: \_\_\_\_\_

Filing Fee: \$535.00 + 20 addresses x \$10.00 = \$ \$200.00 + Survey Accuracy Review: \$200 =  
Total Due \$ \$935.00

### Petitioner:

Name: Bannock County

Address: 624 E. Center

City, ST, ZIP: Pocatello, Id 83201

Phone: (208) 236-7230

Email: halj@bannockcounty.us

### Representative (if applicable):

Name: Hal W. Jensen

Address: 5500 South 5th Ave.

City, ST, ZIP: Pocatello, Id 83201

Phone: (208) 236-7230

Email: halj@bannockcounty.us

### Petition Information:

General Location: 6th Stree R.O.W. between Clark St. and Center St.

Legal Description: See attached

### In addition to the above, the following information must accompany this application:

1. A Microsoft Excel file containing all of the names and addresses of current property owners within a 300-foot radius of the subject property.
2. A signed Affidavit of Mailing List.
3. A written analysis of your request explaining the reason for vacating the right-of-way specifically addressing the following provisions (per City Council Resolution 2016-11):
  - a. Describe why the requested vacation is expedient for the public good;
  - b. Identify any "damages" that the City may incur as a result of the requested vacation and describe any proposed terms and conditions for mitigating any "damages";
  - c. Describe the requested manner of reversion of the requested vacated area and how it is in the best interests of the adjoining property owners;
  - d. Explain why granting the requested vacation will not impair the rights of any lot owner or public utility;
  - e. Provide any additional information that you feel is applicable to this petition.
6. A complete legal description of the right-of-way to be vacated, signed off, and verified by the City Surveyor prior to the filing of this petition. This description must match the site map to be submitted. Legal descriptions should be prepared by a licensed surveyor to avoid possible delays in the petition process and shall be submitted in Word and PDF format as required by the Legal Department.
7. A copy of the recorded subdivision plat documenting the dedication and acceptance of the right-of-way or other applicable documentation.



8. The written consent of all adjacent property owners of record that adjoin the right-of-way to be vacated must accompany this application.

### **TERMS AND CONDITIONS**

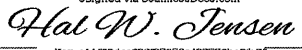
Approval of this application does not permit the violation of any section of the Building Code or other Municipal Codes.

This application shall not be considered complete, nor will a hearing date be scheduled, until all required information, identified on the application, has been submitted and verified by City staff.

The applicant or a representative must be present at the scheduled public hearing.

I agree to abide by any and all conditions the hearing body may impose on my use of this site.

I hereby acknowledge that I have read this application and state that the above information is correct and agree to the above terms and conditions.

eSigned via SeamlessDocs.com  
  
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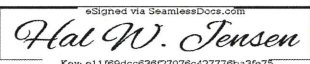
Signature of Petitioner: \_\_\_\_\_

Dated: 08/23/2022

## AFFIDAVIT OF MAILING LIST

1. The undersigned is the applicant or authorized representative of the applicant.
2. The undersigned understands that the City of Pocatello requires the applicant to provide a Microsoft Excel file containing all of the names and addresses of current property owners within a 300-foot radius of the subject property. The list shall be based on the most current equalized assessment rolls acquired from the Bannock County Assessor's Office.
3. The undersigned ensures that the persons named, together with their mailing addresses as shown on the project mailing list attached herewith, are all the owners of property situated within 300 feet of the property, as their said names and mailing addresses are set forth on the latest equalized assessment rolls as acquired from the Bannock County Assessor's Office.
4. The foregoing is true under penalty of perjury.

Dated: 08/23/2022

Signature:   
signed via Seamedocs.com  
Key: e11f69d0c639f27076c427776ba3fa75

Name (please print): Hal W. Jensen

Mailing Address: 5500 South 5th Ave.

City: Pocatello State: Id Zip 83201

I hereby acknowledge that I have read this petition form, and state that the information that I have provided is correct. I am also aware the petitioner or a duly authorized representative must be present at the public hearing.

Signature of Petitioner:  Date: 8.17.22

Signature of Representative: HAL W. JENSEN Date: 8.12.2022

**REVIEW STANDARDS PER COUNCIL RESOLUTION 2016-11:**

**The petitioner must provide specific responses to the following standards:**

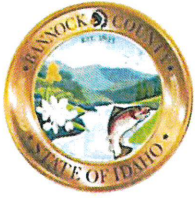
1. Describe why the requested vacation is expedient for the public good: BANNOCK COUNTY COURT-HOUSE AND ADJACENT PHYSICAL FACILITIES FUNCTION LIKE A CAMPUS. BY VACATING 1<sup>ST</sup> ST. ALONG THIS BLOCK WILL PROVIDE GREATER PUBLIC SAFETY FOR PEDESTRIAN TRAFFIC BETWEEN FACILITIES AND PROVIDE OPPORTUNITY FOR ADDITIONAL PARKING, ACCESSIBLE PARKING, AND RESTRICT SPEED OF TRAFFIC THROUGH A PARKING AREA.

2. Identify any "damages" that the City may incur as a result of the requested vacation and describe any proposed terms and conditions for mitigating any "damages": "DAMAGES" - PHYSICAL HARM CAUSED TO SOMETHING IN SUCH A WAY AS TO IMPAIR ITS VALUE, USEFULNESS, OR NORMAL FUNCTION. THE NORMAL FUNCTION IS A TWO-WAY RIGHT-OF-WAY, THE POTENTIAL "DAMAGE" IS RESTRICTING A TWO-WAY R.O.W. TO A ONE-WAY ACCESS EASEMENT.

3. Describe the requested manner of reversion of the requested vacated area and how it is in the best interests of the adjoining property owners: "REVERSION" - A RETURN TO A PREVIOUS STATE. THE ROAD SECTION WILL NOT REVERT TO A "PREVIOUS STATE" BUT WILL REMAIN AS CONSTRUCTED. THERE MAY BE METHODS USED TO DIRECT AND SLOW TRAFFIC, BUT, THROUGH TRAFFIC WILL BE ALLOWED.

4. Explain why granting the requested vacation will not impair the rights of any lot owner or public utility: BANNOCK COUNTY OWNS THE PROPERTY ON EACH SIDE OF THE RIGHT-OF-WAY, THE VACATION WILL IMPROVE PEDESTRIAN SAFETY, THE "PROPERTY RIGHTS" WILL NOT BE IMPAIRED BUT IMPROVED. ALL UTILITIES WILL REMAIN IN THE "EASEMENT" AND BE ACCESSIBLE FOR REPAIR AND MAINTENANCE.

5. Please provide any additional information that you feel is applicable to this petition: BANNOCK COUNTY COURT HOUSE AND ADJACENT SERVICES HAVE GROWN IN USE AND WILL CONTINUE GROWTH AND SERVICE AS OUR COUNT AND COMMUNITIES GROW AND CHANGE. UNTIL THE COUNTY PROVIDES NEW FACILITIES THIS IS A METHOD TO PROVIDE BETTER PEDESTRIAN SAFETY, ACCESSIBILITY AND PARKING FACILITIES ADJACENT TO THE EXISTING FACILITIES.



## BANNOCK COUNTY

Planning & Development  
5500 S. 5th Ave. • Pocatello, ID 83204  
(208) 236-7230 • Fax: (208) 232-2185

BUILDING  
ENGINEERING  
PLANNING AND ZONING

August 23, 2022

Re: 6<sup>th</sup> Street Vacation

To Whom It May Concern,

The property on each side of the requested vacation is owned by Bannock County. As the representative of the County Commission, the Commission consents the property to the County.

Regards,

A handwritten signature in blue ink that reads "Hal W. Jensen".

Hal W. Jensen, Director  
5500 S 5<sup>th</sup> Ave  
Pocatello, ID 83204  
208-236-7230

## 6<sup>th</sup> Street Vacation

A tract of land located in the Southeast 1/4, of Section 26, Township 6 South, Range 34 East, Boise Meridian, Bannock County Idaho, more particularly described as follows:

ALL OF THAT PORTION OF NORTH 6<sup>TH</sup> AVENUE, OF THE ORIGINAL POCATELLO TOWN SITE, AS A PART OF THE OFFICIAL RECORDS OF BANNOCK COUNTY IDAHO, LYING BETWEEN THE SOUTHEAST RIGHT OF WAY LINE OF EAST CLARK STREET, AND THE NORTHWEST RIGHT OF WAY LINE OF EAST CENTER STREET, LYING BETWEEN BLOCK 268 AND BLOCK 234 OF THE ORIGINAL POCATELLO TOWN SITE.

COMPRISING 0.41 ACRES MORE OR LESS

EXCEPTING AND RESERVING THEREFROM:

A PUBLIC UTILITY, AND STORMWATER DRAINAGE EASEMENT OVER AND ACROSS THE AFORMENTION STRIP OF LAND.







# **ATTACHMENT B**

City Council Regular Meeting

Vacation of Right-of-Way

10/06/2022



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## Memorandum

**To:** Carl Anderson, Senior Planner  
**From:** Merrill Quayle PE, Public Works Development Engineer  
**Date:** 9.27.2022  
**Re:** 6<sup>th</sup> Ave Partial Vacation of Right-Of-Way – City Council (10.6.2022)

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The Public Works Departments have reviewed the right-of-way vacation application request for the above mentioned project and submits that the following changes and items shall be addressed and approved prior to recording the vacation ordinance. Approval is contingent on the completeness, accuracy, serviceability, and compliance to City Standards.

1. The proposed new easement line to be delineated in the field.
2. A utility and ingress/egress emergency access easement shall be retained for the entirety of the vacated right of way.
3. Any and all Fire hydrants must be accessible to fire crews.
4. Plans to be prepared for the new utility locations and submitted to the city engineering department for review and approval.
5. An existing enclosure for garbage service must either remain fully accessible to large commercial vehicles or be relocated and meet current standards at the date of relocation.
6. There are two stormwater catch basins located northeasterly off of Center Street on 6<sup>th</sup> Ave. These catch basins shall be relocated to Center Street. Any new development on the proposed 6<sup>th</sup> Ave. vacation area and the adjacent property will need to take into account stormwater treatment and retention for the 2-year storm event.
7. Any work of relocation of utilities and defining any new easements will be at the applicant's expense.

Please see the attached map for the approximate location of the proposed vacation.





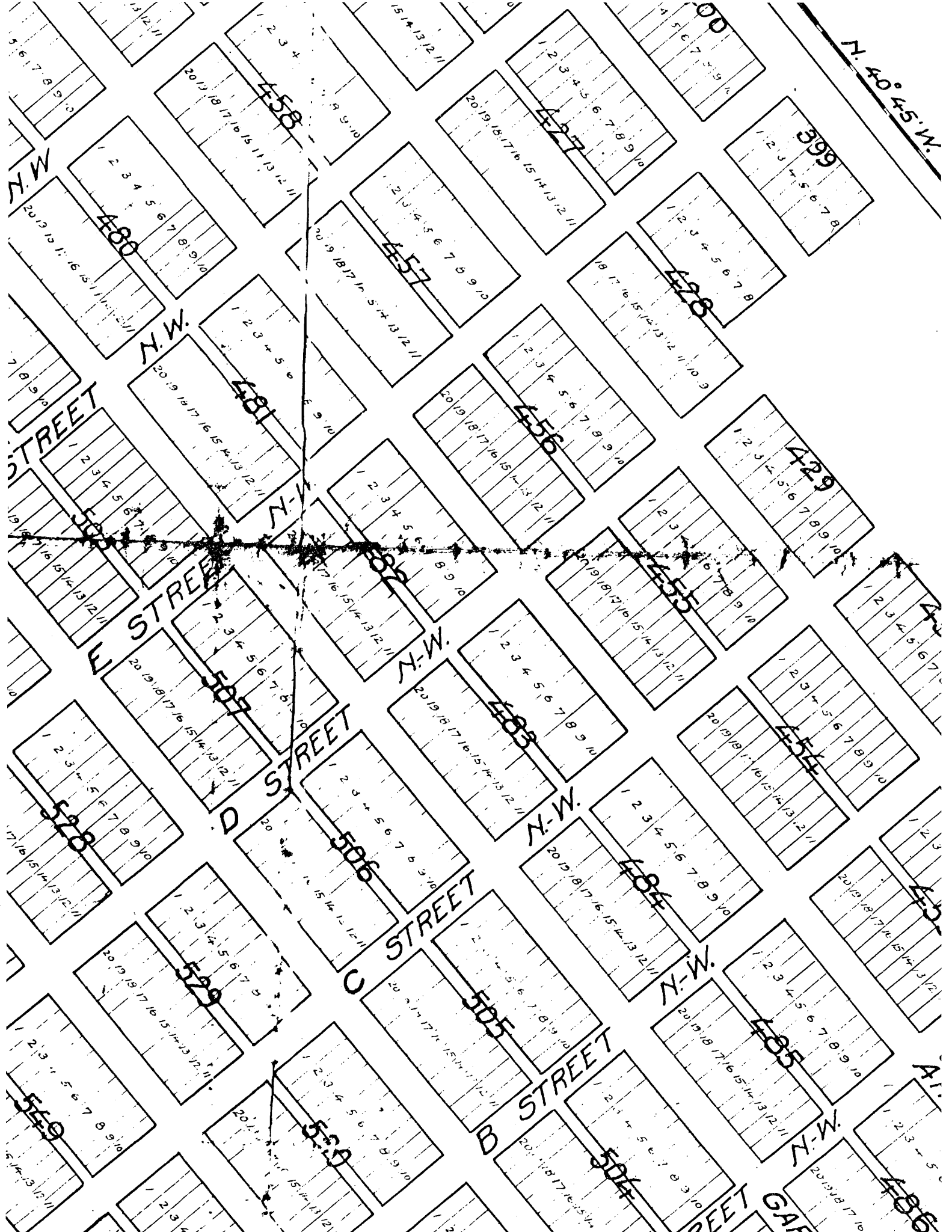


# ATTACHMENT C

City Council Regular Meeting

Vacation of Right-of-Way

10/06/2022



N. 40° 45' W.

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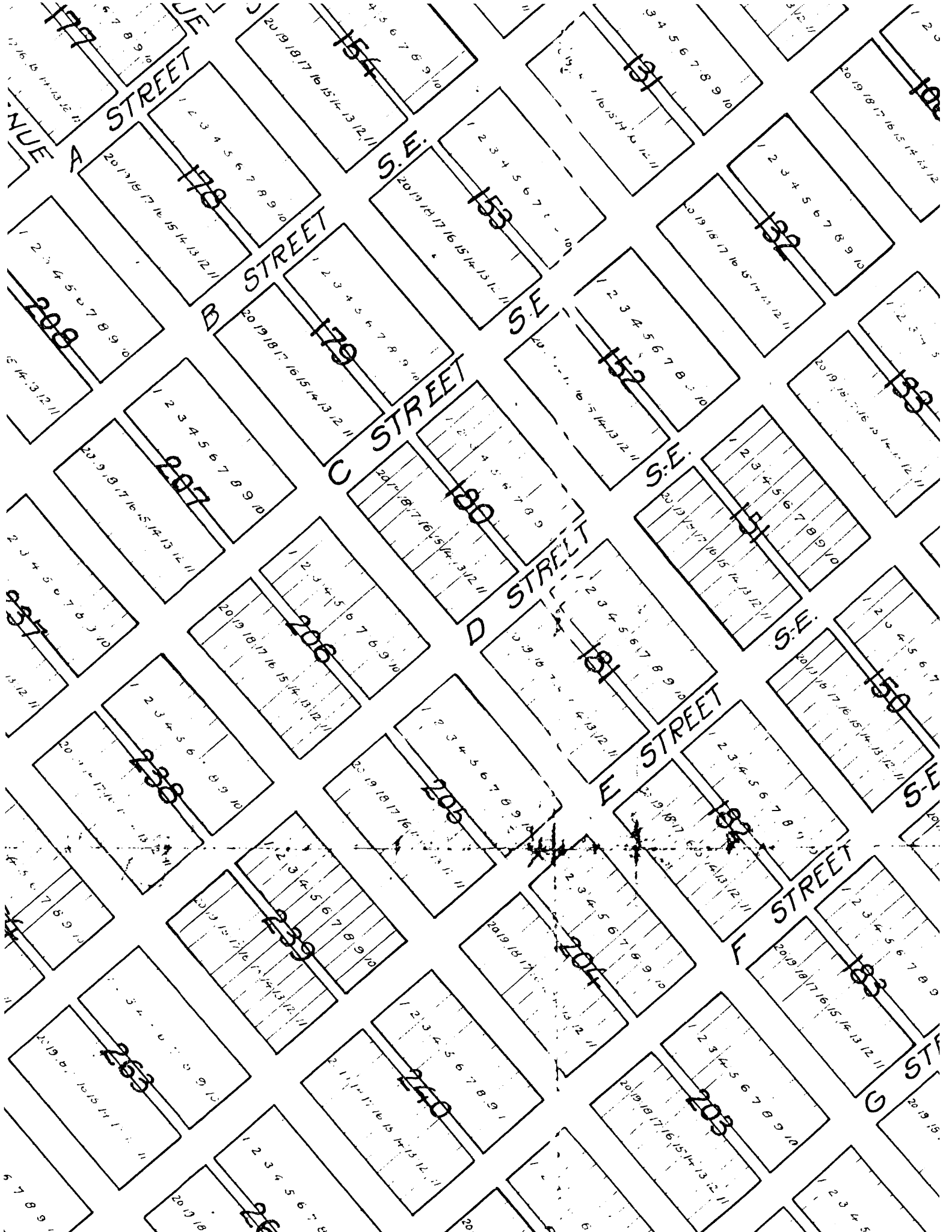
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CERTIFICATE OF CORRECTION

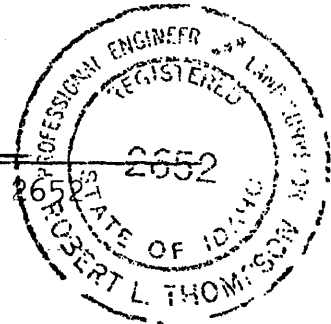
CORRECT RECORD OF SURVEY INST. NO. 769259

I, ROBERT THOMPSON, A LICENSED LAND SURVEYOR IN THE STATE OF IDAHO DO HEREBY CERTIFY THE CHANGES OF DIMENSIONS DESCRIBED BELOW FOR A PARCEL OF LAND AS SHOWN ON THE RECORD OF SURVEY INSTRUMENT #769259 WHICH REFLECTS THE LOCATION OF MONUMENTS IN THE FIELD.

1. THE SOUTH LINE OF THE PARCEL SURVEYED CHANGES FROM S89°05'10"E 169.26, TO N87°06'41"E 160.29.
2. THE DISTANCE ALONG THE EAST LINE CHANGES FROM 119.50 FEET TO 105.36 FEET.

*Robert Thompson*

ROBERT THOMPSON PE/LS

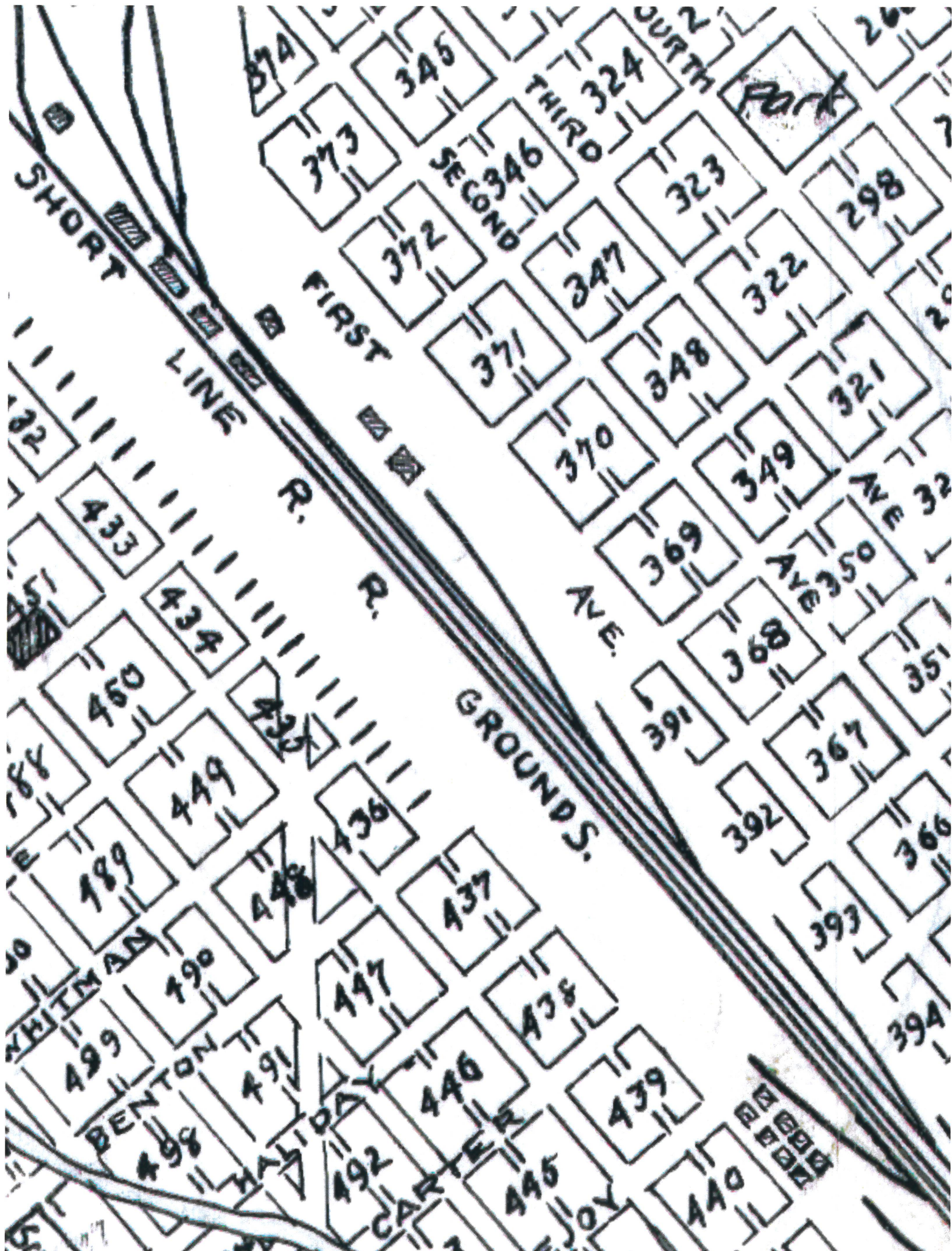


STATE OF IDAHO }  
COUNTY OF BANNOCK } SS

ON THIS 16<sup>th</sup> DAY OF April 1986,  
BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID STATE,  
PERSONALLY APPEARED ROBERT THOMPSON, KNOWN TO ME TO BE  
THE PERSON WHOSE NAME IS SUBSCRIBED TO THE WITHIN  
INSTRUMENT, AND ACKNOWLEDGED TO ME THAT HE EXECUTED THE  
SAME.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND  
AFFIXED MY OFFICIAL SEAL THE DAY AND YEAR FIRST ABOVE  
WRITTEN.

*B. B. B. B. B. B.*  
NOTARY PUBLIC



# **ATTACHMENT D**

City Council Regular Meeting

Vacation of Right-of-Way

10/06/2022





9/28/2022, 12:06:10 PM

Bannock County Parcels\_Public

